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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,405

09/30/2003

Thomas W. Trueb

TRB-22

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7590

12/06/2006

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EXAMINER

SAETHER, FLEMMING

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,405

Applicant(s)

TRUEB ET AL.

Examiner

Flemming Saether

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3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

This application contains claims 11-20 drawn to an invention nonelected traverse in reply filed 4-3-2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, last line, there is no antecedent basis for when the fastener is inserted partially inserted in the cover member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vick (US 3,717,067) in view of Tripp (US 2,172,553) and Rockenfeller (US 4,718,802). Vick discloses a rigid fastener being generally cylindrical in form and comprising an end portion (13) having a plurality of circumferentially extending barb-like projections of a

first diameter and an axially adjacent inward section (12) also having a plurality of circumferentially extending barb-like projections having a second diameter. The second diameter being larger than the first diameter. Vick does not disclose a same inner diameter end and inner portions. Tripp discloses a similar fastener including end (9) and inner (13) portions having the same inner diameter. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to make the fastener of Vick with the same inner diameter as disclosed in Tripp since it would be more economical. Indeed not only would the same inner diameter save on material but it would be easier to manufacture by being formed between a pair of dies as discussed in Tripp. Vick also does not disclosed the at least some of the retaining elements having rounded crests. Rockenfeller discloses a similar fastener and shows the crests of the barbs to be rounded (see Fig. 6). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to shape the barb projections of Vick as disclosed in Rockenfeller in order to facilitate the fastener being driven into hard materials as discussed in Rockenfeller. The fastener being capable of engagement with a resiliently yieldable material.

Claims 5-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Vick as applied to claim 1 above, and further in view of Ravetto (US 5,842,319). Modified Vick does not disclose the engagement portion at opposite end portions. Ravetto discloses a rigid fastener (10) wherein engagement portions (11) are symmetrical at opposite end portions separated by central portion (14) having a larger

diameter. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of modified Vick with an engagement portion at opposite end portions as disclosed in Ravetto so that the fastener could be used in applications to fasten members together where it would be optimal to locate the fastener between the members such as for disclosed in Ravetto. With the fastener being located between the members it would enable it to be operable with members having a substantial thickness greater than the length of the fastener. The specific shape of the central portion would have been obvious since there is no criticality to the shape.

Claims 5-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Vick as applied to claim 1 above, and further in view of MacKenzie (US 2,328,823). Modified Vick does not disclose the engagement portion at opposite end portions. MacKenzie discloses a rigid fastener (Fig. 15) wherein engagement portions (30) are symmetrical at opposite end portions separated by central portion (29) having a not larger diameter. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of modified Vick with an engagement portion at opposite end portions as disclosed in MacKenzie so that the fastener could be used in applications to fasten members together where it would be optimal to locate the fastener between the members such as for disclosed in MacKenzie. With the fastener being located between the members it would enable it to be operable with members having a substantial thickness greater than the length of the fastener. Again, the

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specific shape of the central portion would have been obvious since there is no criticality to the shape.

Response to Remarks

Applicant's remarks have been considered but, are moot in view of the new grounds of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lyday is cited to show rounded crests in a resilient fastener and Stone is cited to show different shaped barbs.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

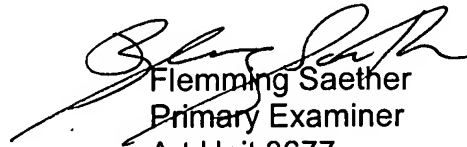
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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